

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #2	CCRB Case #: 201908344	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/19/2019 6:17 PM	Location of Incident: § 87(2)(b) 42nd Precinct stationhouse; unknown location	Precinct: 42	18 Mo. SOL 3/19/2021	EO SOL 11/3/2021	
Date/Time CV Reported Fri, 09/20/2019 4:02 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/20/2019 4:02 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Olson	01600	949418	042 PCT
2. Officers			
3. SGT Ashleigh Sofia	05468	941249	042 PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lissa Solermarte	24735	967346	042 PCT
2. POM Alexander Ponceano	10948	962023	042 PCT
3. POM Jorge Bencosme	20173	963872	042 PCT
4. POM Joseph Mesaris	16202	961949	042 PCT
5. POM Manuel Castillo	04889	961673	042 PCT
6. POF Sherrell Davis	20866	958477	042 PCT
7. SGT Evan Hodos	04120	944081	BX CT
8. LT Jose Gomera	00000	941824	042 PCT
9. POF Jandel Scarlett	19220	962783	042 PCT
10. POM Visar Azemi	19093	962904	042 PCT
11. POM John Paulino	25683	962666	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Thomas Olson	Force: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson used a chokehold against § 87(2)(b)	§ 87(2)(b)
C.POM Thomas Olson	Force: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson restricted § 87(2)(b)'s breathing.	§ 87(2)(b)
D.POM Thomas Olson	Abuse: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson damaged § 87(2)(b)'s property.	§ 87(2)(b)
E.POM Thomas Olson	Discourtesy: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson acted discourteously toward § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F.POM Thomas Olson	Off. Language: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson made remarks to § 87(2)(b) based upon religion.	
G.POM Thomas Olson	Abuse: At the 42nd Precinct stationhouse, Police Officer Thomas Olson threatened § 87(2)(b) with the use of force.	
H.POM Thomas Olson	Abuse: At the 42nd Precinct stationhouse, Police Officer Thomas Olson strip-searched § 87(2)(b)	
I. An officer	Discourtesy: At the 42nd Precinct stationhouse, an officer acted discourteously toward § 87(2)(b)	
J.SGT Ashleigh Sofia	Abuse: At the 42nd Precinct stationhouse, Sergeant Ashleigh Sofia did not process § 87(2)(b)'s complaint regarding officers.	
K. Officers	Force: At the 42nd Precinct stationhouse, officers used physical force against § 87(2)(b)	
L.POM Thomas Olson	Abuse: At the 42nd Precinct stationhouse, Police Officer Thomas Olson refused to provide his name to § 87(2)(b)	
M.POM Thomas Olson	Abuse: At the 42nd Precinct stationhouse, Police Officer Thomas Olson refused to provide his shield number to § 87(2)(b)	
N. Officers	Abuse: At an unknown location, officers refused to provide their names to § 87(2)(b)	
O. Officers	Abuse: At an unknown location, officers refused to provide their shield numbers to § 87(2)(b)	
P.POM Thomas Olson	Abuse: Police Officer Thomas Olson entered § 87(2)(b) § 87(2)(b) in the Bronx.	
Q.POM Thomas Olson	Abuse: Police Officer Thomas Olson searched § 87(2)(b) § 87(2)(b) in the Bronx.	
R.POM Thomas Olson	Off. Language: At § 87(2)(b) § 87(2)(b) in the Bronx, Police Officer Thomas Olson made remarks to § 87(2)(b) based upon gender.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On September 20, 2019, § 87(2)(b) filed the following complaint with the CCRB by telephone.

On September 19, 2019, at approximately 6:00 PM, at § 87(2)(b) in the Bronx, § 87(2)(b) was arrested by Police Officer Thomas Olson, Police Officer Lissa Solermarte, Police Officer Jorge Benscome and Police Officer Alexander Polceano of the 42nd Precinct in regard to an open I-Card. The officers used a forcible takedown to apprehend § 87(2)(b) (**Allegation (A) Force – Physical Force**, § 87(2)(g) Police Officer Olson also allegedly pressed his knee into § 87(2)(b) neck, which restricted his breathing (**Allegation (B) Force – Chokehold**, § 87(2)(g) **Allegation (C) Force – Breathing Restricted**, § 87(2)(g) Allegedly, the officers also repeatedly punched § 87(2)(b) while he was being handcuffed (**within Allegation A**). During the arrest, Police Officer Olson allegedly damaged § 87(2)(b) two cell phones intentionally (**Allegation (D) Abuse of Authority – Property Damage**, § 87(2)(g) At some point thereafter, Police Officer Olson allegedly “slapped” § 87(2)(b) *kufi* – a religious cap – off of his head and remarked that he should, “Pray to Jesus” (**Allegation (E) Discourtesy – Action**, § 87(2)(g) **Allegation (F) Offensive Language – Religion**, § 87(2)(g)

§ 87(2)(b) was removed to the 42nd Precinct stationhouse, where Police Officer Olson allegedly threatened him with force and strip-searched him (**Allegation (G) Abuse of Authority – Threat of Force**, § 87(2)(g) **Allegation (H) Abuse of Authority – Strip-Search**, § 87(2)(g) While held in the cells, an unidentified officer allegedly gestured his middle-finger at § 87(2)(b) (**Allegation (I) – Discourtesy – Action**, § 87(2)(g) Additionally, Sergeant Ashleigh Sofia of the 42nd Precinct allegedly refused to process § 87(2)(b) request to file a CCRB complaint (**Allegation (J) Abuse of Authority – Failure to Process CCRB Complaint**, § 87(2)(g) § 87(2)(b) was taken from the stationhouse to § 87(2)(b). Officers allegedly used force to bring him out of the cells and into the ambulance (**Allegation (K): Force – Physical Force (unspecified)**, § 87(2)(g) § 87(2)(b) alleged that he asked Police Officer Olsen and various officers for their names and shield numbers throughout his time in custody, but never received any identifying information (**Allegations L and M -- Abuse of Authority – Refusal to Provide Name/Shield**, § 87(2)(g) **Allegations N and O -- Abuse of Authority – Refusal to Provide Name/Shield**, § 87(2)(g)

At some point after lodging § 87(2)(b) at the stationhouse, Police Officer Olson returned to § 87(2)(b) with § 87(2)(b) apartment keys. There, Police Officer Olson used the keys to enter § 87(2)(b) residence, § 87(2)(b) (**Allegation (P) Abuse of Authority – Premises Entered**, § 87(2)(g) Once inside, Police Officer Olson was met by § 87(2)(b) girlfriend, § 87(2)(b) Over her objections, he allegedly conducted a search of the premises (**Allegation (Q) Abuse of Authority – Premises Searched**, § 87(2)(g) Police Officer Olson allegedly told § 87(2)(b) to “put on a bra” (**Allegation (R) Offensive Language – Gender**, § 87(2)(g) § 87(2)(b) was charged with § 87(2)(b) (Board Review 16).

§ 87(2)(g), § 87(4-b)

The investigation obtained video footage from the Body-Worn Cameras of Police Officer Olson, Police Officer Solermarte, Police Officer Benscome, Police Officer Polceano (Board Review 05-10). Footage from surveillance cameras in § 87(2)(b) and the 42nd Precinct stationhouse

were also obtained (Board Review 03-04, 29)

Findings and Recommendations

Allegation (A) Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)

Allegation (B) Force: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson used a chokehold against § 87(2)(b)

Allegation (C) Force: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson restricted § 87(2)(b)'s breathing.

Allegation (D) Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson damaged § 87(2)(b)'s property.

§ 87(2)(b) was interviewed at the CCRB on October 4, 2019 (Board Review 01). His girlfriend, § 87(2)(b) was interviewed by phone on June 5, 2020 (Board Review 02). Police Officer Solermarte was interviewed on September 10, 2020 (Board Review 11), Police Officer Olson was interviewed on September 16, 2020 (Board Review 12), and Sergeant Sofia was interviewed on May 25, 2021 (Board Review 13).

The following facts and circumstances surrounding the incident in question are undisputed: At the time of the incident, § 87(2)(b) resided at § 87(2)(b) § 87(2)(b) a unit leased by his uncle, known to the investigation only as § 87(2)(b) § 87(2)(b). On September 19, 2019, § 87(2)(b) was involved in a verbal dispute with the building's property manager, who believed him to be a squatter and called 911. Police Officer Olson and Police Officer Solermarte responded and spoke with the property manager in person and § 87(2)(b) by phone. The officers ultimately told the property manager that they could not take any action against § 87(2)(b) since it was a landlord-tenant dispute. Police Officer Olson, however, conducted a warrant check on § 87(2)(b) which revealed an active I-Card for § 87(2)(b) with probable cause to arrest. Police Officer Olson called for a backup unit. Once Police Officer Ponceano and Police Officer Bencosme arrived, the four officers gathered by the elevators to go up to § 87(2)(b) apartment to arrest him for the I-Card.

§ 87(2)(b) § 87(2)(g) ended his CCRB interview by refusing to address follow-up questions and clarifications. Regarding his arrest, § 87(2)(b) stated that approximately 16 officers led by Police Officer Olson charged at him in the lobby and forcibly took him to the ground; that Police Officer Olson then got on top of him and placed his knee against his neck, which restricted his breathing; and that the other officers jointly punched him as he was handcuffed. § 87(2)(b) also stated that he had two cell phones in his pants pockets, that both phones fell to the ground in the struggle, and that Police Officer Olson intentionally stepped on both devices and damaged them in the process.

The investigation obtained footage from surveillance cameras inside § 87(2)(b). The surveillance footage, in tandem with the BWCs, document the full timeline of the arrest from multiple perspectives: The surveillance footage, at 3:36 into the video (Board Review 29); shows the officers at the elevators at about 5:52 PM, at which time § 87(2)(b) happens to emerge from an adjacent hallway. Police Officer Olson immediately approaches him. Police Officer Olson's BWC, beginning at 10:45 into the video (Board Review 05) shows him telling § 87(2)(b) they needed to speak, and § 87(2)(b) initially stays in his place. But as Police Officer Olson comes within reaching distance, § 87(2)(b) turns and runs down the hallway. The surveillance footage shows the officers giving chase for about four seconds, until § 87(2)(b) comes to a stop. Police Officer Olson, Police Officer Ponceano and Police Officer Bencosme then proceed to grab and press § 87(2)(b) against the wall. Police Officer Olson's and Police Officer Ponceano's BWCs

(Board Review 05, 08-09) show the officers grappling with § 87(2)(b) while upright, and then taking him down to the ground. The officers go on to restrain and handcuff § 87(2)(b) within about 25 seconds, without appearing to use any additional force; their physical engagement is limited to holding § 87(2)(b) steady with their hands. This includes Police Officer Olson's contact with § 87(2)(b) between at 00:58 and 1:12 in Police Officer Polceano's BWC footage, which shows him holding down the back of § 87(2)(b) head with one hand for approximately 12 seconds. Police Officer Olson does not appear to be in contact with any part of § 87(2)(b) neck; nor does he make contact with his throat or windpipe. None of the officers appear to use their bodyweight to restrain § 87(2)(b) and none of them strike him with their hands in any manner. Neither the BWC footage nor the surveillance footage show any objects falling out of § 87(2)(b) pocket during the arrest; and Police Officer Olson does not appear to step onto any fallen items – specifically, § 87(2)(b) cell phones –intentionally or otherwise. When § 87(2)(b) asks for his cell phone a few moments later, Police Officer Olson tells him that he has it in his pocket.

Police Officer Olson's and Police Officer Solermarte's statements regarding the arrest were consistent with the above-described video footage.

§ 87(2)(b) arrest report states that he was arrested on open complaint number § 87(2)(b). It further states that § 87(2)(b) resisted arrest by § 87(2)(a) 160.50 § 87(2)(b) (Board Review 16)

TRI reports prepared by Police Officer Olson, Police Officer Solermarte, Police Officer Ponceano and Police Officer Bencosme, all note the takedown as the only force used against § 87(2)(b) (Board Review 17).

A Property Voucher generated by Police Officer Solermarte shows what § 87(2)(b) was carrying when arrested; it lists only one vouchered cell phone, described as a "black Alcatel cellphone with [a] cracked screen." (Board Review 18)

Per NYPD Patrol Guide (P.G.) Procedure 221-01, force may be used by an officer when it is reasonable to ensure the safety of another officer or third party, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. All use of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, officers should consider factors including the nature and severity of the crime/circumstances, the duration of the action, the immediacy of the perceived threat or harm, the number of subjects, the presence of [a] hostile crowd or agitators, and whether the subject is actively resisting custody (Board Review 21).

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Allegation (E) Discourtesy: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson acted discourteously toward § 87(2)(b)

Allegation (F) Offensive Language: At § 87(2)(b) in the Bronx, Police Officer Thomas Olson made remarks to § 87(2)(b) based upon religion.

§ 87(2)(b) alleged that at some point during the encounter – he did not specify whether it was before, during or after the takedown – Police Officer Olson “slapped” § 87(2)(b) *kufi* off of his head and told him he “should pray to Jesus.”

Police Officer Olson denied touching § 87(2)(b) *kufi* and denied referencing Jesus during any of their interactions. Police Officer Solermarte did not observe any such action or remark.

Police Officer Olson’s and Police Officer Solermarte’s BWC footage show that § 87(2)(b) *kufi* is intact on his head as he is escorted out of the building and placed inside the police vehicle. The *kufi* remains on § 87(2)(b) head even as becomes increasingly belligerent – kicking, screaming, and threatening the officers. At 22:37 in Police Officer Solermarte’s BWC (Board Review 08), § 87(2)(b) suddenly launches himself off the seat and through the open passenger door. Before § 87(2)(b) can fully exit the vehicle, Police Officer Olson responds by grabbing him with both hands and pushing him back into the vehicle. While doing so, Police Officer Olson appears to be in contact with § 87(2)(b) collarbone for under two seconds (see BWC still-frames, pages 3 to 6, at Board Review 30). He then places a hand against § 87(2)(b) right shoulder for several seconds, repeatedly ordering § 87(2)(b) to remain in the vehicle. Up to this point, both the continuous BWC footage and the still-frames show that § 87(2)(b) is still wearing his *kufi*. However, at exactly 22:59 in the recording (see BWC still-frame, page 9), § 87(2)(b) slides over to the right side of the vehicle, out of frame. When he then slides back to his original position on the left side of the vehicle at 23:06, § 87(2)(b) is without the *kufi* he was wearing seconds earlier. § 87(2)(b) now repeatedly asserts that Police Officer Olson “smacked” his *kufi* off to disrespect him. Police Officer Olson repeatedly tells § 87(2)(b) that he never touched his *kufi*. The officers’ combined BWC footage shows no discernible contact between Police Officer Olson and § 87(2)(b) head at any point during their exchange. Additionally, the combined BWC footage fails to show Police Officer Olson making any religious remarks to § 87(2)(b) at this point or any other point in time.

§ 87(2)(g)

Allegation (G) Abuse of Authority: At the 42nd Precinct stationhouse, Police Officer Thomas Olson threatened § 87(2)(b) with the use of force.

Allegation (H) Abuse of Authority: At the 42nd Precinct stationhouse, Police Officer Thomas Olson strip-searched § 87(2)(b)

Allegation (I) Discourtesy: At the 42nd Precinct stationhouse, an officer acted discourteously toward § 87(2)(b)

Allegation (J) Abuse of Authority: At the 42nd Precinct stationhouse, Sergeant Ashleigh Sofia did not process § 87(2)(b) s complaint regarding officers.

Allegation (K) Force: At the 42nd Precinct stationhouse, officers used physical force against § 87(2)(b)

Allegation (L) Abuse of Authority: At the 42nd Precinct stationhouse, Police Officer Thomas

Olson refused to provide his name to § 87(2)(b)

Allegation (M) Abuse of Authority At the 42nd Precinct stationhouse, Police Officer Thomas

Olson refused to provide his shield numbers to § 87(2)(b)

Allegation (N) Abuse of Authority: At an unknown location, officers refused to provide their shield numbers to § 87(2)(b)

Allegation (O) Abuse of Authority: At an unknown location, officers refused to provide their shield numbers to § 87(2)(b)

§ 87(2)(b) alleged that upon arriving at the stationhouse, Police Officer Olson first took him into a bathroom and told him to remove his clothes. When § 87(2)(b) hesitated, Police Officer Olson told him that if he did not strip, he would “force [the clothes] off” him. § 87(2)(b) complied, stripped bare, and squatted for Police Officer Olson's visual inspection. After getting clothed again, Police Officer Olson lodged § 87(2)(b) in a cell. As § 87(2)(b) stayed in the cell over the next two hours, a Hispanic male officer repeatedly walked past § 87(2)(b) cell and gave him the middle finger on each occasion. At some point in time, § 87(2)(b) addressed a white female at the front desk, identified by the investigation as Sergeant Sofia, and told her he wanted to make a report with IAB. Sergeant Sofia allegedly replied, “There is no IAB here” and offered no further assistance. Soon thereafter, § 87(2)(b) acknowledged that he became increasingly irate about his confinement as time progressed. EMTs ultimately arrived to remove him to the hospital. A group of officers, including Police Officer Olson, dragged him out of the cell. While § 87(2)(b) said that the officers then “beat him up,” he refused to further elaborate on what force was used against him, or where it occurred, and could not identify any involved officers besides Police Officer Olson. § 87(2)(b) said that he asked various officers for their names and shield numbers while he was in police custody but could not specify exactly who he requested this information from, or when he did so.

Police Officer Olson’s BWC captured the entire duration between § 87(2)(b) transportation to the stationhouse and his placement in the cell. At 49:40 in the recording the BWC shows Police Officer Olson guiding § 87(2)(b) to the holding cell area and asking him to remove his shoelaces and belt. Upon requesting § 87(2)(b) to raise his hands and expose his waistline, Police Officer Olson sees him with another article of clothing beneath his pants; resembling shorts with drawstrings. Police Officer Olson informs § 87(2)(b) that he cannot be permitted enter the cells with drawstrings. When § 87(2)(b) is unable to remove the drawstrings, Police Officer Olson instructs him to use the bathroom to remove the secondary layer entirely. § 87(2)(b) complies and enters the bathroom alone. Once he exits with the layer, Police Officer Olson lodges him in a cell.

The 42nd Precinct stationhouse is equipped with two surveillance cameras that cover the holding cell area in full view, showing two adjoined cells, and an arrest-processing area in the corner with a printer and chair (Board Review 03-04, Stationhouse Camera 1, Camera 2). Camera 1 begins by showing § 87(2)(b) – wearing a red shirt – pacing inside the cell on the right, visibly upset and appearing to be shouting. Police Officer Olson is seated at the processing area, as Police Officer Solermarte goes about handling paperwork. As time progresses, § 87(2)(b) becomes increasingly agitated: he punches the walls, repeatedly climbs onto the cell door and puts his hands through the bars while yelling at officers. Camera 2 at 56:03 shows § 87(2)(b) doing so as he yells at Police Officer Solermarte. At 56:30, Sergeant Sofia opens the door and addresses § 87(2)(b) from the threshold. The two engage in a conversation until approximately 58:00, during which time § 87(2)(b) steps off the cell bars. Sergeant Sofia then exits and does not re-appear.

Camera 2, at 1:04:30, goes on to show § 87(2)(b) being escorted out of his cell by three officers – Police Officer Olson, an unidentified white male, and an unidentified dark-complexioned male.

The officers then secure handcuffs and leg-shackles on § 87(2)(b) without any resistance on his part, and escort him out of the processing room. Camera 1 and Camera 2 show no use of force on § 87(2)(b). But once he is beyond the scope of these two cameras, there is no further surveillance footage of § 87(2)(b) movements. Footage from cameras in the stationhouse lobby and fingerprinting room do not show him.

Of the six total officers seen entering the holding cell area on Camera 1 and Camera 2, only two appear to be Hispanic males; the first officer spends significant time in the holding area while dealing with a prisoner in the adjacent cell but has no interactions whatsoever with § 87(2)(b). The second officer is a member of the trio who escort § 87(2)(b) out of the cell. At no point do either officer engage in any action consistent with the discourteous gesture alleged by § 87(2)(b).

Sergeant Sofia identified herself as the female speaking to § 87(2)(b) at 56:03 in Camera 2: she assumed that she was instructing him to step off the railing; she did not recall having any other interactions with him; and she denied refusing to process his complaint against officers.

None of the officers interviewed saw another member of service give § 87(2)(b) a middle finger.

Police Officer Olson stated that § 87(2)(b) requested his name and shield number at some point in the cells, which he verbally provided in response. He recalled no other instances of him making this request. Sergeant Sofia and Police Officer Solermarte did not recall being asked for any identifying information either.

§ 87(2)(g)
[REDACTED]

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Allegation (P) Abuse of Authority: Police Officer Thomas Olson entered § 87(2)(b) in the Bronx.

Allegation (Q) Abuse of Authority: Police Officer Thomas Olson searched § 87(2)(b) in the Bronx.

Allegation (R) Offensive Language: At § 87(2)(b) § 87(2)(b) in the Bronx, Police Officer Thomas Olson made remarks to § 87(2)(b) based upon gender.

The following is undisputed: On at least two occasions, first while at the scene of the arrest and then while travelling to the stationhouse, § 87(2)(b) remarked that his § 87(2)(b) old child had been left unattended at his residence. At some point soon after releasing § 87(2)(b) from his cell to be taken to the hospital (at approximately 8:10 PM), Police Officer Olson took possession of § 87(2)(b) apartment keys and returned to § 87(2)(b). After no one answered his knocking at the door, Police Officer Olson proceeded to enter the premises with § 87(2)(b) keys. Once inside, Police Officer Olson found § 87(2)(b) § 87(2)(b) girlfriend. When he inquired about the child, § 87(2)(b) informed Police Officer Olson that she was the only one in the apartment.

§ 87(2)(b) made no reference to his child when he was interviewed. Rather, he stated that Police Officer Olson came to his cell at some point and told him he was going back to the apartment with his keys. Police Officer Olson never sought § 87(2)(b) permission and did not acknowledge his vocal objections.

§ 87(2)(b) stated that she had just exited the bathroom after showering when she heard Police Officer Olson knocking at the door, announcing himself as police. § 87(2)(b) stayed in the living room and said nothing. Several minutes later, Police Officer Olson and an unidentified officer used a key to enter the premises. Upon seeing her in the living room, Police Officer Olson continued inside and inquired about the child. § 87(2)(b) advised that the child was with his mother, that he had not visited that day, and that she was alone in the apartment. § 87(2)(b) asked Police Officer Olson if he had a warrant and told him to leave if he did not. Without response, Police Officer Olson went on to briefly check the bedroom, the bathroom, and then the kitchen, where he opened several cupboards and drawers. At this point, Police Officer Olson and the unidentified officer – who had stayed with § 87(2)(b) in the living room – made their way back to the door.

As he was exiting, Police Officer Olson turned to § 87(2)(b) and told her to “wear a bra.” At the time, § 87(2)(b) was only robed with a towel around her body since she had just showered. While she did not know what prompted him to make the remark, § 87(2)(b) interpreted it as being sexual in nature.

Police Officer Olson stated that § 87(2)(b) had repeatedly expressed concern that his § 87(2)(b) - old child might be alone and unattended at the apartment and that he obtained § 87(2)(b) verbal consent to use his keys and enter the premises to check on the child. § 87(2)(b) never suggested that his girlfriend might be at the apartment and neither he nor § 87(2)(b) were certain if § 87(2)(b) the uncle, was home at the time. Police Officer Olson and another officer – he could not identify them in any manner – went back to the § 87(2)(b) apartment. Police Officer Olson knocked and banged on the door for about five to ten minutes. Although no one answered, Police Officer Olson put his ear to the door and heard possible footsteps inside – but did not detect any other sounds of presence or activity. Ultimately, Police Officer Olson believed that the exigency of a possibly unattended toddler – which he regarded as an emergency in and of itself – required his immediate entry into the premises. As soon as he entered the apartment, § 87(2)(b) approached

Police Officer Olson from the living room, at which time Police Officer Olson (now already past the threshold of the doorway) asked if he could come inside. § 87(2)(b) answered “Yes.”

Police Officer Olson advised § 87(2)(b) that § 87(2)(b) had been arrested, and that they were there because he “told [them] to check up on his § 87(2)(b) -old.” Identifying herself as his girlfriend, § 87(2)(b) told Police Officer Olson that no one else was home but her. Finding her response to be credible, Police Officer Olson and the unidentified officer then left without engaging in any further action inside the residence, and without any additional dialogue with § 87(2)(b). Police Officer Olson denied inspecting or searching the apartment any further; he entered no rooms and opened no drawers or cupboards. Police Officer Olson wanted to first establish whether there was an unattended child before he contacted ACS; and once he established that there wasn’t one, he did not contact them. Police Officer Olson denied saying anything to § 87(2)(b) about wearing a bra and recalled nothing notable about her state or appearance.

The BWC footage shows § 87(2)(b) referring to his child twice. At 20:30 in Police Officer Olson’s BWC, § 87(2)(b) states: “This shit is crazy. My son is upstairs by himself, ya’ll [...inaudible] with his uncle.” Police Officer Olson replies, “We spoke to your uncle, he says he is in Florida.” At 37:23 in Police Officer Olson’s BWC, § 87(2)(b) remarks again that the officers should not be “leaving kids upstairs by themselves.” Police Officer Olson says at this point says, “Your uncle said he was upstairs, we were on the phone with him.” § 87(2)(b) responds, “Stop saying that, how do you know he lives with us? He is lying to you.”

The NYPD found no BWC footage from Police Officer Olson’s BWC for the time period during which Police Officer Olson went back to the apartment.

Police Officer Olson documented the action in question on the flypage of the previous tour’s memo book entries, noting [sic]: “Checked perp’s apt for possible § 87(2)(b) old home alone @ approximately 2030 hrs. GF was home. No child present. Keyed in door b/c of no answer @ door.” (Board Review 14) He prepared no paperwork reflecting the consent he obtained from § 87(2)(b) or § 87(2)(b).

Absent exigent circumstances, the police may not enter a private residence without a warrant (Payton v. New York, 445 U.S. 573 [1980]; Board Review 22). One such exigency is an emergency, under which a warrantless entry is justified by the need to render immediate assistance to an injured occupant or to protect an occupant from imminent danger. For the doctrine to apply, the officer must reasonably believe that an emergency exists and there must be a nexus between the emergency and the premises entered (People v. DePaula, 179 A.D.2d 424 [1992]; Board Review 23). An officer needs only an “objectively reasonable basis” to believe that the danger inside requires immediate intervention (Brigham City v. Stuart, 547 U.S. 398 [2006]; Board Review 24).

§ 87(2)(g)

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§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- Neither § 87(2)(b) nor § 87(2)(b) have been a party to any prior CCRB complaints.
- Police Officer Olson has been a member of service for 11 years and has been a subject in nine CCRB complaints and nine allegations, none of which were substantiated § 87(2)(g)
- Sergeant Sofia has been a member of service for 15 years and has been a subject in four CCRB complaints and six allegations, one of which was substantiated.
 - 201708879 involved a substantiated stop allegation for which the Board recommended Command Discipline B, and the NYPD issued no disciplinary action or penalty.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the Office of the Comptroller claiming emotional, physical and mental injuries as a result of the incident and seeking \$800,000.00 as redress (Board Review 27).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 02

Investigator: /sprakash Inv. Santosh Prakash 9/24/21
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 9/24/2021
Signature Print Title & Name Date